

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Federal-State Joint Board on Universal Service)	CC Docket No. 96-45
)	
Petition of the Minnesota Public Utilities Commission)	
For Agreement With Changes in Definition of Service)	
Areas for Exchanges Served by CenturyTel, Citizens)	
Telecommunications Company, Frontier Communications)	
Of Minnesota, Mid-State Telephone Company, Scott-Rice)	
Telephone, United Tel Co of Minnesota (UTC of)	
Minnesota), Federated Telephone Company, Melrose)	
Telephone Company, Winsted Telephone Company (TDS)	
Telecom), Eckles Telephone Company (Blue Earth Valley)	
Telephone Company), Lakedale Telephone Company, and)	
Farmers Mutual Telephone Company.)	
)	

**REPLY COMMENTS OF THE
UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (USTA),¹ through the undersigned and pursuant to the *Public Notice*² released by the Federal Communications Commission's (FCC's or Commission's) Wireline Competition Bureau (WCB) and pursuant to sections 1.415 and 1.419

¹ USTA is the Nation's oldest trade organization for the local exchange carrier industry. USTA's carrier members provide a full array of voice, data and video services over wireline and wireless networks.

² *Public Notice*, CC Docket No. 96-45, DA 03-2641 (rel. Aug. 12, 2003) soliciting comment on the Minnesota Public Utilities Commission's Petition to Redefine Rural Telephone Company Service Areas in the State of Minnesota.

of the Commission's rules,³ hereby submits its reply comments in the above-referenced proceeding.⁴

DISCUSSION

In its comments, USTA urged the Commission to refrain from taking any substantive action on the Petition because the Petition filed by the Minnesota Public Utilities Commission (Minnesota PUC) raises issues that are currently before the Federal-State Joint Board on Universal Service (Joint Board). More specifically, the Commission's decision on the Petition should take into consideration the Joint Board's recommendations on these issues and the Commission's own Order in a subsequent rulemaking on those recommendations. USTA believes that by requesting comments on the Minnesota PUC Petition the Commission has initiated a proceeding to consider the Petition. Accordingly, USTA maintains that deferral of substantive action by the Commission on this matter, pending the Joint Board recommendation and a Commission Order on a subsequent rulemaking, would prevent the proposed redefinition of service areas from going into effect automatically 90 days after the Commission's Public Notice in which it announced the Petition was filed and sought comments on the Petition.⁵ Pursuant to FCC Rule Section 54.207(c)(3)(i), "if the Commission initiates a proceeding to consider the petition, the proposed definition shall not take effect until both the state commission

³ 47 C.F.R. §§1.415 and 1.419.

⁴ Federal-State Joint Board on Universal Service; Petition of the Minnesota Public Utilities Commission for Agreement With Changes in Definition of Service Areas for Exchanges Served by CenturyTel, Citizens Telecommunications Company, Frontier Communications of Minnesota, Mid-State Telephone Company, Scott-Rice Telephone, United Tel Co of Minnesota (UTC of Minnesota), Federated Telephone Company, Melrose Telephone Company, Winsted Telephone Company (TDS Telecom), Eckles Telephone Company (Blue Earth Valley Telephone Company), Lakedale Telephone Company, and Farmers Mutual Telephone Company, CC Docket 96-45 (filed Aug. 7, 2003) (Petition).

⁵ See 47 C.F.R. §54.207(c)(3)(ii).

and the Commission agree upon the definition of a rural service area.”⁶ While USTA believes that no further Public Notice is necessary to formally state that the Commission has initiated a proceeding, USTA recognizes that the Commission’s rules on when a proceeding has been initiated may be subject to a different interpretation. Accordingly, if the Commission determines that it has not initiated a proceeding by announcing the filing of the Petition and asking for comments on it in the Public Notice issued on August 12, 2003, then USTA urges the Commission to issue a separate Public Notice stating that it is initiating a proceeding within 90 days of the August 12th Public Notice. The redefinition of service areas proposed by the Minnesota PUC should not be permitted to go into effect automatically because the Commission has failed to initiate a proceeding.

With the exception of two commenters, there was agreement among the other commenters that the Commission should not redefine the service areas of the rural telephone companies identified in the Petition and that the Commission should defer substantive action on the Petition until after the Joint Board has issued its recommendation in the Universal Service Portability Proceeding⁷ and the Commission has issued an Order in a rulemaking based on the Joint Board’s recommendation. Like USTA, many commenters explained that Commission deferral on the Petition would allow the Commission to benefit from guidance expected to be provided by the Joint Board on the issues raised in the Minnesota PUC Petition, noting that the redefinition sought by Midwest Wireless is not an isolated request. Many carriers have sought and will continue to seek redefinition of the service areas of rural telephone companies. Case in point, two commenters – Cellular Mobile Systems of St. Cloud (CMS) and Minnesota Southern

⁶ 47 C.F.R. §54.207(c)(3)(i).

Wireless Company d/b/a HickoryTech (HickoryTech) – state that they anticipate the Minnesota PUC will file petitions similar to the one at issue in this proceeding to redefine the service areas of the rural telephone companies that do not correspond to the areas covered by their wireless licenses.⁸ Although CMS and HickoryTech argue that the Commission has already addressed service area redefinitions similar to the one at issue in this proceeding,⁹ USTA maintains that the Commission’s findings in those proceedings were wrong for the same reasons that it states the Commission should not redefine the service areas of the rural telephone companies identified in the Minnesota PUC Petition. Any decision to redefine the service areas of rural telephone companies must take into consideration the recommendation of the Joint Board. To date, the only recommendation provided by the Joint Board, and likewise the only Commission Order, addressing redefinition of service areas of rural telephone companies states that the study areas of rural telephone companies shall be retained as their service areas.¹⁰ Moreover, neither the Joint Board nor the Commission have provided a means for circumventing their recommendation and finding that the current study areas of rural telephone companies shall be retained as their service areas.¹¹

⁷ See *Federal-State Joint Board on Universal Service*, Order, CC Docket No. 96-45, 17 FCC Rcd 22642 (2002) (Universal Service Portability Proceeding).

⁸ See CMS and HickoryTech Comments at 2.

⁹ See *Federal-State Joint Board on Universal Service; RCC Holdings, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout Its Licensed Service Area in the State of Alabama*, Memorandum Opinion and Order, CC Docket No. 96-45, 17 FCC Rcd 23532 (2002) and *Federal-State Joint Board on Universal Service; Cellular South License, Inc. Petition for Designation as an Eligible Telecommunications Carrier Throughout Its Licensed Area in the State of Alabama*, Memorandum Opinion and Order, CC Docket No. 96-45, 17 FCC Rcd 24393 (2002).

¹⁰ See USTA Comments at 5-6.

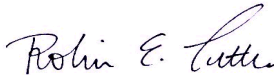
¹¹ See *id.*

CONCLUSION

If the Commission determines that it has not already initiated a proceeding on the Minnesota PUC Petition by issuing a Public Notice seeking comments on the Petition, then the Commission should initiate a proceeding on the Petition within 90 days of that Public Notice. Again, USTA urges the Commission to defer substantive action on the Petition, pending a recommendation by the Joint Board in the Universal Service Portability Proceeding and an Order by the Commission in a subsequent rulemaking proceeding associated with such Joint Board recommendation.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Meena Joshi, do certify that on September 9, 2003, the aforementioned Reply Comments of The United States Telecom Association were electronically mailed to the following persons.

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